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EXAMINER

STEPHAN, B

ART UNIT

PAPER NUMBER

3635

*14*

DATE MAILED:

06/14/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/239,878**

Applicant(s)  
**Boyer et al**

Examiner  
**Beth Stephan**

Group Art Unit  
**3635**



☒ Responsive to communication(s) filed on May 30, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 27-32 is/are pending in the application.

Of the above, claim(s) 30-32 is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 27-29 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

*SAS*

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Receipt is acknowledged of the amendment filed 5/30/00. Claims 23-26 have been canceled and claims 27-32 have been added.

### ***Election***

Newly submitted claim 30-32 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the floor being added to the structure after the roof slab, side, and front and rear walls are formed has not been previously claimed and is an independent invention than the unitary body previously claimed.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 30-32 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 27 is rejected under 35 U.S.C. 102(b) as being anticipated by Hsu'985. Hsu teaches a modular vault(10) comprising a unitary housing body, see Figure 1, a roof slab, see

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column 3, lines 25-27 and 16-17, a rear wall(17), a front wall(15), two side walls(14,16), a floor slab(18), the front wall having a door frame opening(40) integrally formed with the body, the body cast from reinforced concrete, see column 3, lines 25-27, and a door(12) which is fire-resistant and burglary-proof.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 27 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guardiani'598. Guardiani teaches a modular vault comprising a unitary housing body, see Figure 6 and column 6, lines 19-22, a roof slab, see Figure 4, a rear wall, a front wall and two side walls(12,12a), and a floor slab(10), see Figure 6, and a door opening, see Figure 4. Guardiani lacks the vault having a door frame, and more than two side walls.

The use of a frame with a door, and a frame with a window is well known in the construction of a unit to be used for storage/living within. Therefore, to have provided the vault of Guardiani with door/window frames making the vault vapor-tight is deemed obvious for a skilled artisan to seal the vault against burglars, and to make it fire-resistant.

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The number of side walls is deemed a matter of obvious design choice for a skilled artisan given the intended use of the vault and the environment within which it will be used.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hsu'985 as applied to claim 27 above, and further in view of Speer'817. Hsu teaches the vault discussed previously but lacks the use of hooks for hoisting the vault.

Speer teaches a unitary vault(10) having integral hooks(27) on the roof(16) of the vault.

It would have been obvious for one having ordinary skill in the art at the time of the invention to have provided the vault of Hsu with hooks, as taught by Speer, in order to provided the vault with transporting capabilities.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Guardiani'598 as applied to claim 27 above, and further in view of Speer'817. Guardiani teaches the vault discussed previously but lacks the use of hooks for hoisting the vault.

Speer teaches a unitary vault(10) having integral hooks(27) on the roof(16) of the vault.

It would have been obvious for one having ordinary skill in the art at the time of the invention to have provided the vault of Guardiani with hooks, as taught by Speer, in order to provided the vault with transporting capabilities.

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Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hsu'985 as applied to claim 27 above. Hsu teaches the vault discussed previously but lacks the use of more than two side walls.

The number of side walls is deemed a matter of obvious design choice for a skilled artisan given the intended use of the vault and the environment within which it will be used.

### ***Response to Arguments***

Applicant's arguments filed 5/30/00 have been fully considered but they are not persuasive. However, the Hsu reference also is considered to read on the claimed invention.

Guardiani shows a unitary housing body having a roof slab, a floor slab, walls, and a door opening for a door and door frame. The way in which the body is formed is given no patentable weight because the claims are drawn to the structure of the vault, not how it is made.

The way in which the Guardiani vault is used is moot since this feature is not claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Stephan whose telephone number is (703) 308-2485. The examiner can normally be reached from 7:30 am to 6:00 pm. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1268.

  
BETH A. STEPHAN  
PRIMARY EXAMINER

Beth A. Stephan

June 6, 2000